

### REMARKS

Claims 1 to 22 are pending in the application, of which claims 1, 7 and 13 are independent. Favorable reconsideration and further examination are respectfully requested.

In the Office Action, claims 1, 2, 3, 5, 7 to 9, 11 to 19 and 22 were rejected over WO9847112 (Miller) in view of U.S. Patent No. 6,424,884 (Brooke) and one of the following U.S. Patents: 5,991,749 (Morrill), 6,415,142 (Martineau), 5,796,832 (Kawan), and 6,356,752 (Griffith). Claims 4 and 10 were rejected over these patents in further view of U.S. Patent No. 6,283,367 (Matthew); and claims 6, 20 and 21 were rejected in further view of U.S. Patent No. 5,844,808 (Konsmo) or U.S. Patent No. 6,462,644 (Howell). As shown above, Applicant has amended the claims to define the invention with greater clarity. In view of these clarifications, withdrawal of the art rejections is respectfully requested.

Amended independent claim 1 defines a method of dispensing a product from a vending machine. The method includes receiving a signal from a cellular telephone at a start of the method in order to establish a network connection to the cellular telephone. The network connection enables the vending machine to dispense the product. The method also includes issuing a response to the signal which indicates that the network connection has been established between the cellular telephone and the vending machine prior to dispensing the product, receiving information indicating that the product has been selected, and dispensing the product in response to the information after the network connection has been established.

Miller is not understood to disclose or to suggest the foregoing features of claim 1. In fact, Examiner acknowledges, on page 2 of the Office Action, that

[Miller] is silent on receiving a signal from a cell phone at a start of the method in order to establish a connection to the cell phone, the connection enabling the vending machine to dispense a product in connection with use of the cell phone and issuing a response to the signal to indicate a connection is established between cell phone and vending machine prior to dispensing product.

Examiner argues that the Griffith and Brooke references supply the missing features. Applicant respectfully disagrees.

The Griffith reference describes making transactions by transferring user data information via a wireless telephone. Specifically, the Griffith reference describes using a cellular telephone to make a monetary transaction with a cash register. These transactions include generating, transferring, and confirming "a transaction number," which represents an unique identifier for authorizing the monetary transaction. Thus, Griffith neither discloses or suggests "enabling the *vending machine* to *dispense the product* in connection with the use of the cellular telephone," as described in Applicant's claim 1 (emphasis added).

In this regard, page 3, paragraph 2 of the office action alleges that Griffith discloses "a transaction device" that establishes a connection "to a site computer controlling a transaction unit (e.g. vending machine)." Applicant, however, find no support whatsoever for this allegation. As explained above, as understood by Applicant, the Griffith reference only describes the transaction unit in terms of a cash register. A cash register is distinguishable from a vending machine, namely it only supports handling data information (i.e. authorizing the transaction number). A cash register cannot "dispense the product in connection with use of the cellular telephone," as described in Applicant's amended claim 1.

Brooke also does not remedy the foregoing deficiency of Miller. In this regard, Brooke uses an electromagnetic device instead of a cellular telephone for communication. As a result, Brooke neither discloses or suggests wireless communication over a network, as described in Applicant's amended claim 1. Instead, Brooke communicates via "an electromagnetic field having a pre-determined frequency" (col. 4, lines 26-27). The user must hold the electromagnetic device, or transporter interrogator, at a "predetermined distance away from the front panel of the vending machine" in order for "the electromagnetic field [to] emanate" (col. 27-29).

In contrast to Brooke, Applicant uses a cellular telephone as the user device, thus enabling communication over the wireless network. Moreover, the user is not constrained to communicate from a "predetermined distance," but she may communicate from any given location. The impossibility of using an electromagnetic device of the type set forth in Brooke to communicate over a wireless network eradicates any motivation to combine Brooke with Griffith.

The remaining art is not understood to add anything to the disclosure of Miller, Griffith, and Brooke that would remedy their foregoing deficiencies against claim 1. For example, Howell describes a wide area network that uses cellular telephone technology to allow vending machines 102 to communicate with a data warehouse 110, e.g., to determine when the vending machines need to be replenished (see, e.g., Fig. 1 of Howell). The communication, however, has nothing to do with establishing a connection to enable a vending machine to dispense product, as in the invention of claim 1. Konsmo also describes a system for monitoring remote vending

machines but, like the prior art addressed above, Konsmo does not disclose or suggest establishing a connection between a cellular telephone and a vending machine in order to enable the vending machine to dispense a product.

Kawan describes using a cellular telephone to effect a financial transaction. Morrill describes using a cellular telephone to act as an electronic wallet, e.g., transfer funds, pay for goods and services, etc. Mathew and Martineau relate to the use of smart cards, which may be integrated into cellular telephones, to pay for goods and services. None of these patents, however, describe establishing a connection between a cellular telephone and a vending machine in order to enable the vending machine to dispense a product as in the invention of claim 1.

Thus, with specific reference to the language of claim 1, the applied references, whether taken individually or in combination, are not understood to disclose or suggest at least receiving a signal from a cellular telephone at a start of the method in order to establish a network connection to the cellular telephone, the network connection enabling the vending machine to dispense the product in connection with use of the cellular telephone, and issuing a response to the signal which indicates that the network connection has been established between the cellular telephone and the vending machine prior to dispensing the product. Claim 1 is thus believed to be allowable.

Amended independent claims 7 and 13 contain features similar to those noted above for claim 1, and are believed to be allowable for at least the same reasons noted above with respect to claim 1.

Each of the dependent claims is also believed to define patentable features of the invention. Each dependent claim partakes of the novelty of its corresponding independent claim and, as such, has not been discussed specifically herein.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the application is in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Applicant's undersigned attorney can be reached at the address shown below. All telephone calls should be directed to the undersigned at 617-368-2158.

Please apply any fees or credits due in this case, which are not already covered by check, to Deposit Account 06-1050 referencing Attorney Docket No. 12758-002001.

Applicant.: Gero Offer  
Serial No. : 09/759,606  
Filed : January 12, 2001  
Page : 12 of 12

Attorney's Docket No.: 12758-002001  
Client Docket No.: 2000P01017

Respectfully submitted,

Date: 9/29/2004

Ruth J. Ma

Ruth J. Ma  
Reg. No. 55,414

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110-2804  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906